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September 23, 2021

The Honorable Mary Kay Vyskocil
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: *Penske Media Corp. v. Shutterstock, Inc.*, 20-cv-4583 (MKV)

Dear Judge Vyskocil:

Plaintiff and Counterclaim Defendant Penske Media Corporation writes to request an order compelling Shutterstock to commit to complete document production promptly, but no later than September 30, 2021. On September 20, PMC provided a draft of this letter to Shutterstock so that the parties could submit a joint letter regarding this discovery dispute in accordance with Your Honor's rules. PMC asked Shutterstock to provide its portion by today, three business days later. In response, counsel for Shutterstock emailed that "there was no way that I'm going to submit this joint letter."¹ For this reason, PMC submits this letter on its own.

As the Court is aware, the deadline for fact discovery is November 24, 2021. Nevertheless, Shutterstock has produced only a handful of documents and does not want to commit to finishing its production until October 15. PMC has tried for weeks to resolve this impasse but to no avail.

On August 24, 2021, counsel for PMC emailed counsel for Shutterstock requesting that the parties agree that week on a deadline to exchange documents. Counsel for Shutterstock responded that she was out of the office and not available to discuss until August 30. On August 30, Shutterstock did not provide any response to PMC's request. As of September 9, Shutterstock still had not responded to PMC's request, although it found the time to draft and serve PMC with a second set of document requests.

On September 14, PMC again requested that Shutterstock commit to a deadline to produce documents and suggested the end of the following week, September 24. Shutterstock responded that it was discussing this and other issues internally and would have answers in the

¹ Among other things, counsel stated that the letter was improper and fails to follow the local rules, as well as this Court's rules. However, counsel did not elaborate on the alleged rule violation, even after PMC asked for a clarification regarding which rules Shutterstock believed PMC did not follow.

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next couple of days. Shutterstock again provided no substantive response, although on September 15, Shutterstock served PMC with a third set of document requests.

On September 20, PMC provided a draft of this letter to Shutterstock, seeking a production deadline of September 30, and inviting Shutterstock to submit its portion of this letter by today. On September 21, Shutterstock stated that it would not submit this joint letter and requested, despite the prior emails, that the parties meet and confer. The parties met and conferred telephonically that evening. PMC again proposed that the parties agree to finish exchanging documents by September 30. Although PMC's document demands had been outstanding for months, counsel for Shutterstock explained that the firm had not yet loaded documents onto any review platform, and it was unclear whether Shutterstock had even fully searched for or gathered responsive documents. Counsel for Shutterstock proposed October 15 as the deadline to exchange documents and suggested the parties could spend the following two weeks reviewing the documents and take all the depositions in this case during the first two weeks of November. As PMC explained to Shutterstock, this delayed and truncated timetable is not reasonable, especially given that PMC has noticed depositions for October and PMC has no information regarding the volume of documents that Shutterstock will produce. Accordingly, PMC also informed Shutterstock that PMC would be submitting this letter to the Court.

Given that Shutterstock has failed to agree to a reasonable deadline to complete document production, PMC requests an order compelling Shutterstock to complete document production promptly, but no later than September 30, 2021. PMC respectfully submits that this order is necessary to ensure that PMC has sufficient time to review the documents in preparation for depositions.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia S. Arato". The signature is fluid and cursive, with the first name "Cynthia" being more prominent.

Cynthia S. Arato